

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

C.A. NO. **04-CV-11838-PBS**
Honorable Patti B. Saris

LAYLA KIANI,

Plaintiff,

vs.

TRUSTEES OF BOSTON UNIVERSITY,

Defendants.

**PLAINTIFF'S MOTION TO
EXTEND THE TIME
FOR FILING A BRIEF IN
OPPOSITION TO
DEFENDANTS' MOTION
FOR SUMMARY
JUDGMENT**

Plaintiff, Layla Kiani, hereby moves this Honorable Court to extend the time for submitting her opposition to the Defendants' Motion for Summary Judgment. As the reasons for her Motion, she states that discovery period has not yet ended, and also that Defendants have not yet complied with her original discovery requests, and as a result she has filed a Motion to Compel discovery. She is respectfully requesting that the time for submission of a brief in support of her Opposition to Defendants' motion be extended until **June 15, 2005**, or until after such time when the Court decides on Plaintiff's Motion to Compel. Plaintiff further respectfully brings the Court's attention to fact that the date originally set for a Summary Judgment hearing, might need to be modified in order to reflect these changes. Plaintiff herewith puts forth the following argument in support of her Motion.

PROCEDURAL BACKGROUND

On Oct. 18, 2004, the Honorable Judge Patti B. Saris issued a Scheduling Order. According to the Order, all discovery was to be due by 4/29/2005; summary judgment Motion

due by 5/13/2005; and opposition to a summary judgment motion by 5/27/05. However, since that time, the Court has also allowed Plaintiff's Motion to Extend Time for Discovery and has set a deadline of May 31, 2005. On May 26, 2005, Plaintiff also submitted a Motion to Compel Discovery. Plaintiff is seeking full responses to her First Set of Interrogatories and First Set of Requests for Production of Documents. In their responses, Defendants had failed to completely respond or provide the requested information as required under Federal Rules of Civil Procedure 33 and 34. On May 31, 2005, the Honorable Judge Saris, on procedural grounds and without prejudice, denied Plaintiff's Motion to Extend the Time for Filing a Brief in Opposition to Defendants' Motion for Summary Judgment. Finally, the Court has set a hearing date of June 6, 2005 for summary judgment or Pretrial Conference.

LEGAL ARGUMENT

Under Rule 56 (c) of the Federal Rules of Civil Procedure, the adverse party (the non-moving party) is given an opportunity to oppose a summary judgment motion by serving opposing affidavits anytime "prior to the day of the hearing." *Id.* In the current case, Plaintiff has requested certain information and documents under Federal Rules of Civil Procedure 33 and 34. Defendants have failed to provide Plaintiff with such information or documents. Consequently, Plaintiff is unable to reasonably develop a solid argument in support of her opposition to Defendants' Summary Judgment Motion. Moreover, the time for Plaintiff's filing of a brief in support of such an opposition is not ripe because although the discovery period closed on May 31, 2005, Defendants have continued to refuse to provide the requisite documents, and Plaintiff's Motion to Compel has not been ruled on. In light of these concerns, Plaintiff respectfully requests that the deadline for submission of Plaintiff's opposition brief be extended, and a hearing on the summary judgment motion also be postponed until after the decision of this Court on the above matters.

CONCLUSION

Plaintiff is moving for an order by this Honorable Court to extend the time for submission of her opposition to Defendants' Summary Judgment Motion. Discovery period has not ended yet. Moreover, Defendants have not yet complied with Plaintiff's discovery requests, and as a result, she would not be able to put forth a viable argument based on the facts that she currently has available to her. Defendants did not fully respond to Plaintiff's interrogatories and requests for production of documents, and an extension of time will allow her time to await Defendants' response. Plaintiff would also have to await a decision from the Court concerning her Motion to Compel. Finally, Plaintiff suggests to that this Honorable Court consider the postponement of the day originally set for a Summary Judgment hearing.

Dated: June 1, 2005

Respectfully submitted,
Layla Kiani, by her attorney,

/S/ Benjamin B. Tariri

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CERTIFICATE OF SERVICE

I, Benjamin B. Tariri, Esquire, hereby certify that I have this 1st day of June, 2005, served a true copy of the above document upon the Defendants' attorney of record by first class mail .

/S/ Benjamin B. Tariri _____